

An Garda Síochána

Oifig Saoráil Faisnéise
An Garda Síochána
Teach áth Luimnigh
Lárionad Gnó Udáras Forbartha Tionscail
Baile Sheáin
An Uaimh
Contae na Mí
C15 DR90



Freedom of Information Office
An Garda Síochána
Athlumney House
IDA Business Park
Johnstown
Navan
Co Meath
C15 DR 90

Teileafón/Tel: (046) 9036350

Láithreán Gréasain/Website: www.garda.ie

Bi linn/Join us  

Ríomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000211-2016 Partially Granted

Dear

I refer to your request, dated and received on the 30th May 2016 which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by An Garda Síochána.

Part 1(n) of Schedule 1 of the FOI Act states that An Garda Síochána is listed as a partially included agency “insofar as it relates to administrative records relating to human resources, or finance or procurement matters”. Therefore, only administrative records that relate to human resources, finance or procurement shall be considered.

Your request sought:

1. *The number of complaints about internal bullying made for the period start April 2015 to end April 2016.*
2. *The number of investigations into alleged bullying during that time.*
3. *A list of the stations involved.*
4. *The number of complaints upheld.*
5. *Details of An Garda Síochána's policy on bullying.*

I wish to inform you that I have decided to **partially grant** your request on the 22nd June 2016.

The purpose of this letter is to explain that decision. This explanation has the following parts:

1. An explanation of the relevant findings concerning the records to which access is denied, and
2. A statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these in turn.

1. Findings, particulars and reasons for decisions to deny access

The sections of the Act which can apply to deny access to documents are known as its exemption provisions.

I have made a decision to **grant** Part 1, 2 and 4 of your request – ‘*the number of complaints about internal bullying made for the period start April 2015 to end April 2016*’, ‘*the number of investigations into alleged bullying during that time*’ and ‘*the number of complaints upheld*’ by providing a summary of the returns outlining the number of bullying complaints made by Garda and Civilian members between 1st April 2015 and 30th April 2016 in the table below.

Year	Number of complaints received	Investigations	Outcomes	Appeals
2015	5	5	1 complaint upheld 3 complaints not upheld - (*one of which has been appealed) 1 investigation ongoing	*1 (ongoing)
2016	2	2	Ongoing	

I have made a decision to **refuse** Part 3 of your request - ‘*A list of the stations involved.*’ In view of the small numbers concerned, I am of the opinion that providing the number of complaints, broken down by station, would result in the identification of the individuals concerned within the Garda Organisation or within the public domain itself. The reporting of bullying within An Garda Síochána is a confidential matter between the individuals and the relevant managers and serious consideration must be given to the impact it will have on the particular individuals involved (both the complainant and the person complained of) if the information released were to result in their identification.

I am conscious of my obligation to retain personal information in a confidential and secure manner and prevent personal information from being released into the public domain unnecessarily. Personal information is defined at section 2 of the FOI Act and includes the following.

Section 2 – Interpretation

2. (1) In this Act—

“personal information” means information about an identifiable individual that, either—

- (a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or
- (b) is held by an FOI body on the understanding that it would be treated by that body as confidential,

and, without prejudice to the generality of the foregoing, includes—

- (iii) information relating to the employment or employment history of the individual,
- (v) information relating to the individual in a record falling within section 11(6)(a),

- (vi) *information relating to any criminal history of, or the commission or alleged commission of any offence by, the individual,*
- (xi) *the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name would, or would be likely to, establish that any personal information held by the FOI body concerned relates to the individual,*

As referenced at section 2 above, section 11(6)(a) refers to access to records but does not include certain personal records. Section 11(4) sets out the right of access to records and the types of records that can be accessed. However, in section 11 there are a number of records that are considered personal and are not automatically subject to release by an FOI body. Section 11(6)(a) sets out the records that are not included for release at section 11(4).

(6) Subsection (4) shall not be construed as applying, in relation to an individual who is a member of the staff of an FOI body; the right of access to a record held by an FOI body that—

(a) is a personnel record, that is to say, a record relating wholly or mainly to one or more of the following, that is to say, the competence or ability of the individual in his or her capacity as a member of the staff of an FOI body or his or her employment or employment history or an evaluation of the performance of his or her functions generally or a particular such function as such member,

I am refusing to provide details of the number of complaints, broken down by Station, as I believe that the individuals involved will become easily identifiable beyond their family and friends and it would be considered a breach of the confidentiality upon which the information is being held by the Garda Organisation. The release of information about such a small number of incidents, which is specific to particular individuals, will allow for a person to become more identifiable and possibly named in the public domain. I am therefore applying Section 37(1) Personal Information which states:

Section 37 - Personal Information

37 (1) *Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).*

There is a Public Interest Test applicable to section 37 of the FOI Act.

Public Interest Test

As per section 37 of the FOI Act I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of organisational functions to the greatest possible extent,
- The public interest in members of the public exercising their rights under the FOI Act,
- That there is more than just a transitory interest by the public in this information,
- The right to privacy is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records I have taken account of the following:

- Allowing a public body to hold personal information without undue access by members of the public,
- The public interest is not best served by releasing these records,
- That the Organisation can conduct its business in a confidential manner,
- That there is a reasonable and implied expectation by employees that sensitive personal information will remain confidential,
- That there is no overriding public interest that outweighs the individual's right to privacy.

A public interest test was carried out when considering the release of the personal information but having balanced the factors both for and against the release, I decided that the public interest in preserving the personal information and the reasonable expectation that information can be maintained in a confidential manner by An Garda Síochána in the context of its bullying and harassment policies outweighs the public interest which would be served were the records released to you.

I wish to advise that I am **refusing** Part 5 of your request - '*Details of An Garda Síochána's policy on bullying.*' under section 15(1)(d) of the FOI Act which states:

15. (1) *A head to whom an FOI request is made may refuse to grant the request where—*

(d) the information is already in the public domain,

I wish to inform you that An Garda Síochána currently operates two bullying and harassment policies. '*The Dignity at Work – an anti bullying, harassment and sexual harassment policy for the Irish Civil Service*', issued by the Department Public Expenditure and Reform, is a Civil Service wide policy which is applied to civilian staff working within An Garda Síochána.

With regard to Garda members I can advise that a separate policy – '*Working Together To Create A Positive Working Environment*' applies. This booklet outlines the Policy and Procedures of the Garda Síochána for dealing with harassment, sexual harassment and bullying in the workplace. Both policies are available on the Garda website at <http://garda.ie/Controller.aspx?Page=94>. I also wish to inform you that a revised bullying and harassment policy is due to be completed shortly.

An Garda Síochána expect its officers and staff to behave with the highest standards of integrity and professionalism at all times, and any conduct, which brings or is likely to bring discredit on the organisation will be investigated. The number of complaints received should be placed into the context of the overall strength of An Garda Síochána which is approximately 16,000 Garda members, civilian staff and reserves.

2. Right of Appeal

In the event that you are not happy with this decision you may seek an Internal Review of the matter by writing to the address below and quoting reference number **FOI-000211-2016**.

Freedom of Information Office,
An Garda Síochána,
Athlumney House,
IDA Business Park,
Johnstown,
Navan,
Co. Meath
C15 DR90

Please note that a fee applies. This fee has been set at €30 (€10 for a Medical Card holder). Payment should be made by way of bank draft, money order, postal order or personal cheque, and made payable to Accountant, Garda Finance Directorate, Garda Headquarters, Phoenix Park, Dublin 8.

Payment can be made by electronic means, using the following details:

Account Name: Garda Síochána Finance Section Public Bank Account
Account Number: 10026896
Sort Code: 900017
IBAN: IE86B0F190001710026896
BIC: BOFIE2D

You must ensure that your FOI reference number is included in the payment details.

You should submit your request for an Internal Review within 4 weeks from the date of this notification. The review will involve a complete reconsideration of the matter by a more senior member of An Garda Síochána and the decision will be communicated to you within 3 weeks. The making of a late appeal may be permitted in appropriate circumstances.

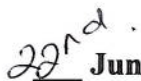
Please be advised that An Garda Síochána replies under Freedom of Information may be released in to the public domain via our website at www.garda.ie.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Should you have any questions or concerns regarding the above, please contact me by telephone at (046) 9036350.

Yours sincerely,

 **SUPERINTENDENT**
HELEN DEELY
FREEDOM OF INFORMATION OFFICER

 **22nd June 2016**